

Assembly Bill No. 728

CHAPTER 369

An act to amend Section 2827.9 of the Public Utilities Code, relating to electricity.

[Approved by Governor September 29, 2005. Filed with
Secretary of State September 29, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 728, Negrete McLeod. Electricity: biogas digester customer-generators: net metering.

Under existing law, electric service providers, as defined, are required to provide eligible customer-generators with net energy metering, as defined. Under existing law, electrical corporations are required, only until January 1, 2006, to provide eligible biogas digester customer-generators with net energy metering, as defined, under a pilot program. Existing law defines an "eligible biogas digester customer-generator," in part, as a customer of an electrical corporation that uses a biogas digester electrical generating facility, as defined, with a capacity of not more than one megawatt, that is located on or adjacent to the customer's premises, is interconnected and operates in parallel with the electric grid, and is sized to offset part or all of the customer's own electrical requirements and that receives certain funding.

Existing law requires an electrical corporation to file a standard tariff providing for net energy metering for eligible biogas digester customer-generators and to make the tariff available upon request on a first-come-first-served basis, until the total cumulative rated generating capacity used by the eligible biogas digester customer-generators equals 5 megawatts within the service territory of the electrical corporation, with a combined statewide generating capacity not to exceed 15 megawatts.

This bill would extend the operation of the biogas customer-generator pilot program until December 31, 2009, and would authorize an eligible biogas digester customer-generator to continue to receive service pursuant to the net energy metering tariff for the life of the facility, after December 31, 2009. The bill would modify the definition of an "eligible biogas digester customer-generator," to authorize up to 3 large biogas digester electrical generating facilities with a capacity of more than one megawatt and not more than 10 megawatts. The bill would delete the above-described 5 megawatt per electrical corporation limitation on eligibility for the pilot program and would increase the current 15 megawatt statewide limitation to 50 megawatts. The bill would require a biogas digester electrical generating facility subject to the best available control technology (BACT) requirements to install the BACT at the time of installation in order to participate in the tariff. The bill would require

the commission, in collaboration with the State Air Resources Board, to report certain information relative to the pilot program to the Legislature on or before December 31, 2008.

Under existing law, the failure to file a required tariff, or a violation of an order or direction of the commission, including a commission-approved tariff, is a crime.

Because the bill would require electrical corporations to file new tariffs and would continue tariffs in effect past their current repeal date, the bill would impose a state-mandated local program by creating new crimes.

The people of the State of California do enact as follows:

SECTION 1. Section 2827.9 of the Public Utilities Code is amended to read:

2827.9. (a) (1) The Legislature finds and declares that a pilot program to provide net energy metering for eligible biogas digester customer-generators would enhance the continued diversification of California's energy resource mix and would encourage the installation of livestock air emission controls that the State Air Resources Board believes may produce multiple environmental benefits.

(2) The Legislature further finds and declares that the net energy metering pilot program authorized pursuant to this section for eligible biogas digester customer-generators, which nets out generation charges against generation charges on a time-of-use basis, furthers the intent of Chapter 7 of the Statutes of 2001, First Extraordinary Session, by facilitating the implementation of energy efficiency programs in order to reduce consumption of energy, reduce the costs associated with energy demand, and achieve a reduction in peak electricity demand.

(b) As used in this section, the following definitions apply:

(1) "Electrical corporation" means an electrical corporation, as defined in Section 218.

(2) (A) "Eligible biogas digester customer-generator" means a customer of an electrical corporation that meets both of the following criteria:

(i) Uses a biogas digester electrical generating facility with a capacity of not more than one megawatt that is located on or adjacent to the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid, and is sized to offset part or all of the eligible biogas digester customer-generator's own electrical requirements.

(ii) Is the recipient of local, state, or federal funds, or who self-finances pilot projects designed to encourage the development of eligible biogas digester electrical generating facilities.

(B) Notwithstanding subparagraph (A), up to three large biogas digester electrical generating facilities with a generating capacity of more than one

megawatt and not more than 10 megawatts, otherwise meeting the criteria of this section, shall be eligible for participation in the pilot program.

(3) “Eligible biogas digester electrical generating facility” means a generating facility used to produce electricity by either a manure methane production project or as a byproduct of the anaerobic digestion of biosolids and animal waste.

(4) “Net energy metering” means measuring the difference between the electricity supplied through the electric grid and the difference between the electricity generated by an eligible biogas digester customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (e). Net energy metering shall be accomplished using a time-of-use meter capable of registering the flow of electricity in two directions. If the existing electrical meter of an eligible biogas digester customer-generator is not capable of measuring the flow of electricity in two directions, the eligible biogas digester customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a time-of-use meter.

(c) Every electrical corporation shall file with the commission a standard tariff providing for net energy metering for eligible biogas digester customer-generators, consistent with this section. Every electrical corporation shall make this tariff available to eligible biogas digester customer-generators upon request, on a first-come-first-served basis, until the combined statewide cumulative rated generating capacity used by the eligible biogas digester customer-generators in the service territories of the three largest electrical corporations in the state reaches 50 megawatts. An eligible biogas digester customer-generator shall be eligible for the tariff for the life of the eligible biogas digester electrical generating facility.

(d) Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if the customer was not an eligible biogas digester customer-generator, except as set forth in subdivision (e). Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible biogas digester customer-generator’s costs beyond those of other customers in the rate class to which the eligible biogas digester customer-generator would otherwise be assigned are contrary to the intent of this legislation, and shall not form a part of net energy metering tariffs.

(e) The net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized metering calculation:

(1) The eligible biogas digester customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible biogas digester customer-generator's system with an electrical corporation, and at each anniversary date thereafter, be billed for electricity used during that period. The electrical corporation shall determine if the eligible biogas digester customer-generator was a net consumer or a net producer of electricity during that period. For purposes of determining if the biogas digester customer-generator was a net consumer or a net producer of electricity during that period, the electrical corporation shall aggregate the electrical load of a dairy operation under the same ownership, including, but not limited to, the electrical load attributable to milking operations, milk refrigeration, and water pumping located on property adjacent or contiguous to the dairy. Each aggregated account shall be billed and measured according to a time-of-use rate schedule.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electrical corporation exceeds the electricity generated by the eligible biogas digester customer-generator during that same period, the eligible biogas digester customer-generator is a net electricity consumer and the electrical corporation shall be owed compensation for the eligible biogas digester customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible biogas digester customer-generator's consumption shall be calculated as follows:

(A) The generation charges for any net monthly consumption of electricity shall be calculated according to the terms of the tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible biogas digester customer-generator. When those eligible biogas digester customer-generators are net generators during any discrete time-of-use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electrical corporation would charge for retail kilowatthour sales for generation, exclusive of any surcharges, during that same time-of-use period. If the eligible biogas digester customer-generator's time-of-use electrical meter is unable to measure the flow of electricity in two directions, paragraph (4) of subdivision (b) shall apply. All other charges, other than generation charges, shall be calculated in accordance with the eligible biogas digester customer-generator's applicable tariff and based on the total kilowatthours delivered by the electrical corporation to the eligible biogas digester customer-generator. To the extent that charges for transmission and distribution services are recovered through demand charges in any particular month, no standby reservation charges shall apply in that monthly billing cycle.

(B) The net balance of moneys owed shall be paid in accordance with the electrical corporation's normal billing cycle.

(3) At the end of each 12-month period, where the electricity generated by the eligible biogas digester customer-generator during the 12-month

period exceeds the electricity supplied by the electrical corporation during that same period, the eligible biogas digester customer-generator is a net electricity producer and the electrical corporation shall retain any excess kilowatthours generated during the prior 12-month period. The eligible biogas digester customer-generator shall not be owed any compensation for those excess kilowatthours.

(4) If an eligible biogas digester customer-generator terminates service with the electrical corporation, the electrical corporation shall reconcile the eligible biogas digester customer-generator's consumption and production of electricity during any 12-month period.

(f) No biogas digester electrical generating facility shall be eligible for participation in the tariff established pursuant to this section, that has not commenced operation by December 31, 2009. A biogas digester customer-generator shall be eligible for the tariff established pursuant to this section, only for the operating life of the eligible biogas digester electrical generating facility.

(g) No biogas digester electrical generating facility that is subject to the best available control technology (BACT) requirements shall be eligible for participation in the tariff pursuant to this section unless the biogas digester electrical generating facility has installed the best available control technology as required by the regional air pollution control district at the time of installation to ensure the maximum feasible reductions in toxic and criteria pollutants.

(h) On or before December 31, 2008, the commission, in collaboration with the State Air Resources Board, shall report to the Legislature all of the following information:

- (1) The impact of the pilot program on emissions of air pollutants.
- (2) The impact of the pilot program on the reliability of the transmission and distribution grid.
- (3) The impact of the pilot program on ratepayers.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.